

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, California 95110-1795

Hearing Date/Agenda Number
P.C. 10/13/04 Item #: 3.g.

File Number
CP04-026

Application Type
Conditional Use Permit

Council District
1

Planning Area
West Valley

Assessor's Parcel Number(s)
299-31-023

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Lori Moniz

Location: Northwest corner of San Tomas Expressway and Williams Road

Gross Acreage: 9.46

Net Acreage: 9.46

Net Density: n/a

Existing Zoning: R-1-8 Residence District

Existing Use: Utility facility (San José Water Company)

Proposed Zoning: no change

Proposed Use: Same as above, plus 50-foot-high free-standing wireless communications monopole and an associated equipment enclosure

GENERAL PLAN

Completed by: LM

Land Use/Transportation Diagram Designation
Public/Quasi-Public

Project Conformance:
☒ Yes ☐ No
☐ See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: LM

North: Single-family detached residences

R-1-8 Residence

East: San Tomas Expressway

County

South: Single-family detached residences (across Williams Road)

R-1-8 Residence

West: Single-family houses, Condominiums, church

R-1-8 and RM Residence, A(PD) Planned Development

ENVIRONMENTAL STATUS

Completed by: LM

☐ Environmental Impact Report found complete
☐ Negative Declaration circulated on
☐ Negative Declaration adopted on

☒ Exempt
☐ Environmental Review Incomplete

FILE HISTORY

Completed by: LM

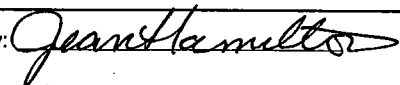
Annexation Title: Boynton No. 10

Date: December 13, 1957

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☒ Approval
☐ Approval with Conditions
☐ Denial
☐ Uphold Director's Decision

Date: 10-5-04

Approved by: 
☒ Action
☐ Recommendation

OWNER

San José Water Company
Attn: Bob Loehr
374 W. Santa Clara Street
San José, CA 95113

APPLICANT

The Alaris Group (for Sprint PCS)
Attn: Kristina Woerner
185 Berry Street, Suite 5300
San Francisco, CA 94107

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: LM

Department of Public Works

See Attached

Other Departments and Agencies

None

GENERAL CORRESPONDENCE

None received

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, The Alaris Group (for Sprint PCS), is requesting a Conditional Use Permit (CUP) to allow a 50-foot-high free-standing wireless communications monopole and associated equipment enclosure located at the northwest corner of San Tomas Expressway and Williams Road. The Zoning Ordinance requires a CUP for a wireless telecommunications facility in the R-1-8 Residence Zoning District. The 9.46 -acre parcel is part of a larger 20-acre site/facility owned by San Jose Water Company that includes a few small accessory-type structures, water tanks, distribution piping, water percolation ponds and various other utility related equipment. The site, which is accessed from Williams Avenue, is flat and includes approximately 200 trees. A CUP for the existing water company facility on the site was approved in 1993 (File No. CP93-062).

Other nearby land uses include single-family detached homes to the north, San Tomas Expressway to the east, single-family detached homes across Williams Road to the south, and a mix of single-family homes, multi-family homes/condominiums and a church to the west of the site. It should be noted that the nearest residential property lines are approximately 120 feet away from the area of the site in which improvements are proposed.

PROJECT DESCRIPTION

The project proposal would allow a 50-foot high free-standing wireless communications stealth monopole on the western portion of the site. The proposed monopole, which is designed to look like a tree, would be placed near several large existing trees located on the subject site. Equipment cabinets mounted on a 210 square foot concrete slab are proposed near the base of the antenna within a 30 x 40 foot lease area enclosed by a chain link fence.

ENVIRONMENTAL REVIEW

The Director of Planning, Building and Code Enforcement has determined that this project is exempt from environmental review under the provisions of the California Environmental Quality Act (CEQA).

The CEQA guidelines include an exemption (section 15303) for new construction or conversion of small structures. The CEQA guidelines do not specifically address monopoles per se. However, 15303c allows an exemption for “a store, motel, office, restaurant or similar “structure” not involving the use of significant amounts of hazardous substances, and not exceeding 2,500 square feet in floor area. In urbanized areas, the exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive”. It is staff’s opinion that the proposed project adequately conforms to the provisions of this section because of the small size of the structure.

GENERAL PLAN CONFORMANCE

The proposed land use is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Public/Quasi-Public. This designation allows a variety of uses public facilities such as libraries, schools and fire stations. It also enumerates a variety of other allowable public-serving utility related uses such as water treatment facilities and telecommunications facilities.

ANALYSIS

The primary issues analyzed in this report are the project’s conformance to the following: 1) Zoning Ordinance, and 2) City Council Policy 6-20, Land Use Policy for Wireless Communication Antennas. As described in greater detail below, staff’s opinion is that the proposed project conforms to the Zoning Ordinance and is consistent with the provisions of the City’s Wireless Communications Policy.

Conformance to the Zoning Ordinance

Height

The project site is located in the R-1-8 Residence Zoning District. This district has a maximum height limit of 35 feet. However, the Zoning Ordinance allows for the increase in the height of telecommunication facilities (monopoles) to a maximum of 60 feet in the R-1-8 Residence Zoning District, provided that the design of the structure is a “slim pole”. The overall height of the proposed monopole will not exceed 50 feet. The proposed height extension of the existing monopole utilizes a “slim pole” design with design enhancements to disguise the monopole to look like a pine tree.

Setbacks

The proposed monopole with setbacks of over 120 feet from the front property line at San Tomas Expressway and at least 200 feet from all other property lines exceeds the minimum setback requirements of 25 feet and 5 feet.

Conformance to City Council Policy 6-20 for Wireless Communications Facilities

Visual Impacts

The intent of the policy is to minimize any impacts of wireless communications facilities. New freestanding monopoles should not be implemented where building mounted or collocated facilities are feasible and would reduce visual impacts. Building-mounted (for example, rooftop) antennas are

generally preferable to new monopoles and the current policy encourages such installations. Building-mounted antennas are not feasible at this site, given the height of the existing structures on and near the site. Therefore, the applicant proposed a stealth monopole disguised as an artificial tree to meet the intent of the policy.

The proposed monopole is located behind a grove of existing trees located on the site adjacent to San Tomas Expressway. The pole is proposed to be a “stealth” pole with enhancements to disguise it to look like a pine tree in order to visually blend in with the nearby trees.

Height

New wireless communications antennas are required to conform to the General Plan and Zoning Ordinance height restrictions. The proposed 50-foot monopole conforms to the General Plan Urban Design height limit for structures other than buildings (such as monopoles) of 100-feet. As previously indicated, the Zoning Ordinance allows for slim pole antennas up to a maximum height of 60-feet.

Setbacks from Residential Uses

The policy recommends that freestanding monopoles be located no closer than a distance equal to one foot for every one foot of structure height from any parcel developed for use as a single-family or multi-family residence. Also, substantial landscaping (10 feet minimum), generally including trees, should be provided adjacent to the residential property line, to buffer the adjoining residential uses. The applicant’s proposal is consistent with the Council Policy in that the existing monopole would be located in excess of 200 feet from the nearest residential uses located to the east of the site. As previously indicated, numerous trees already exist on this site.

Performance Standards

This project does not include the installation of power-generating equipment and will therefore easily comply with the noise level performance standards identified in the Zoning Ordinance. Should the applicant wish to include such equipment in the future a development permit would be required and the equipment would be required to meet the performance standards for the Zoning District.

Parking

The project does not impact any parking spaces. Adequate parking is provided for the primary water company facility.

CONCLUSION

The proposed project will accomplished all of the key design objectives of the City’s policy for such structures. In anticipation of further on-going improvements in technology related to the wireless communications industry, it may be very likely that service providers will be able to maintain, improve or expand their service network by way of antenna facilities that are even less obtrusive that typically accomplished today. This permit is proposed to include a five (5) year time limit so that the City can re-evaluate the appropriateness of the facility in the context of future improvements to antenna technology.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following facts and findings in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding the proposed project:

1. The project site has a designation of Public/Quasi Public on the adopted *San José 2020 General Plan Land Use/Transportation Diagram*.
2. The project site at the northwest corner of San Tomas Expressway and Williams Road is in the R-1-8 Residence Zoning District.
3. Wireless communications monopoles are a conditional use in the R-1-8 Residence Zoning District.
4. The subject site or lot is located adjacent to a residentially zoned property or is located next to a residential use.
5. The proposed antennas and equipment enclosure will be located approximately 200 feet from the nearest residential use.
6. Substantial existing development on the subject site including several small structures (totaling of over 2,000 square feet), water tanks, percolation ponds and related water distribution facilities.
7. A 1,200 square foot equipment enclosure is proposed.
8. The proposed project conforms to the required setbacks from property lines as prescribed in the R-1-8 Residence Zoning District.
9. The proposed monopole is 50 feet in height.
10. The maximum height limit of the R-1-8 Residence Zoning District is 35 feet. However, the Zoning Ordinance allows slim pole antennas up to a maximum height of 60-feet.
11. The proposed monopole has been located and designed to visually blend with existing adjacent trees.
12. The proposed monopole will not eliminate required parking.
13. The proposed monopole is time-conditioned to expire in five years.
14. The City Council Land Use Policy for Wireless Communications Facilities is applicable to this application.

15. Under the provisions of Section 15303 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment.

The Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The project is consistent with the General Plan Land Use /Transportation Diagram designation of Agricultural.
2. The proposed project is in compliance with the California Environmental Quality Act (CEQA).
3. The project complies with the applicable provisions of the Zoning Ordinance, Title 20 of the Municipal Code.
4. The proposed project conforms to the City Council's Land Use Policy for Wireless Communication Facilities.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. As conditioned, the proposed use at the location requested will not
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit, except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

2. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled "Williams Station SF60XC867-D" dated September 15, 2004, last revised September 22, 2004, on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 24).
3. **Nuisance.** This use shall be operated in a manner, which does not create a public or private nuisance. The applicant must abate any such nuisance immediately upon notice by the City.
4. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
5. **Lighting.** This permit allows no new on-site lighting.
6. **Utilities.** All new on-site telephone and electrical service facilities shall be placed underground.
7. **Colors and Materials.** All wireless communications building-mounted antennas colors and materials are to be those specified on the approved plan set and shall match the existing structure.
8. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, Room 308, (408) 277-5161, and is subject to the following requirements (3-10852) to the satisfaction of the Director of Public Works:
 - a) *Flood Protection.* Equipment must be elevated at or above the base flood elevation or protected from flood damage. An Elevation Certificate (FEMA Form 81-31) for each proposed structure, based on construction drawings, is required prior to issuance of a building permit. Consequently, an Elevation Certificate for each built structure, based on finished construction is required.
9. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:

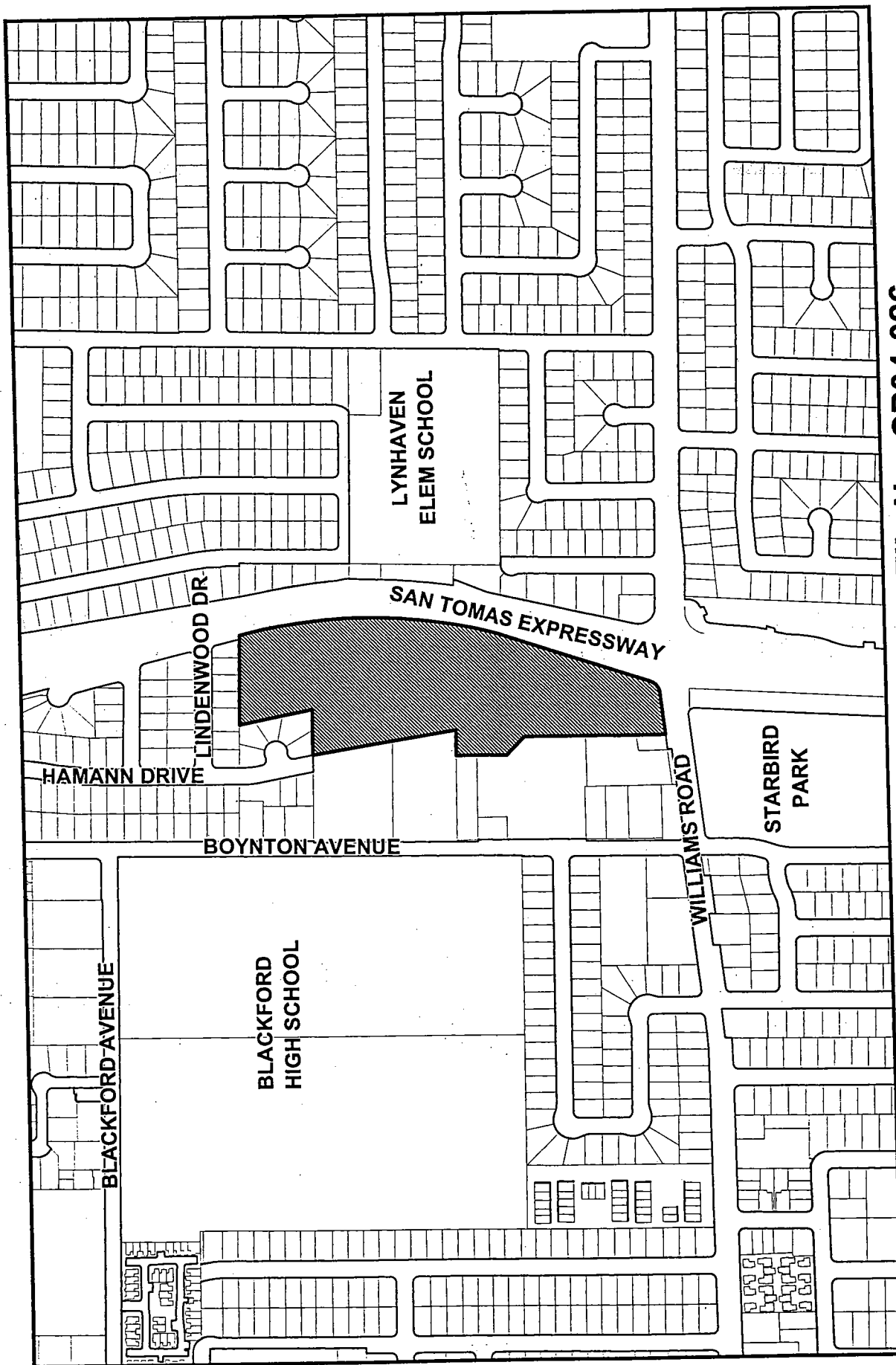
- a. *Construction Plans.* This permit file number, CP04-026, shall be printed on all construction plans submitted to the Building Division.
- b. *Construction Conformance.* A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.
- c. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
- d. *Archaeology.* There shall be monitoring of site excavation activities to the extent determined by a qualified professional archaeologist to be necessary to insure accurate evaluation of potential impacts to prehistoric and/or historic resources.
 - 1) If no resources are discovered, the archaeologist shall submit a report to the Director of Planning, Building and Code Enforcement verifying that the required monitoring occurred and that no further mitigation is necessary.
 - 2) If evidence of any archaeological, cultural and/or historical deposits are found, hand excavation and/or mechanical excavation will proceed to evaluate the deposits for determination of significance as defined by CEQA guidelines. The archaeologist shall submit reports, to the satisfaction of the Director of Planning, describing the testing program and subsequent results. These reports shall identify any program mitigation that the Developer shall complete in order to mitigate archaeological impacts (including resource recovery and/or avoidance testing and analysis, removal, reburial and curation of archaeological resources).
 - 3) In the event that human remains and/or cultural materials are found, all project-related construction shall cease within a 50-foot radius in order to proceed with the testing and mitigation measures required. Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California:
 - a) In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified by the developer and shall make a determination as to whether the remains are native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission, who will attempt to identify descendant of the deceased Native Americans. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the landowner shall re-enter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

- b) A final report shall be submitted to the Director of Planning prior to release of a Certificate of Occupancy. This report shall contain a description of the mitigation programs and its results including a description of the monitoring and testing program, a list of the resources found, a summary of the resource analysis methodology and conclusions and a description of the disposition/curation of the resources. The report shall verify completion of the mitigation program to the satisfaction of the Director of Planning.
- 10. **Anti-Graffiti.** The applicant shall remove all graffiti from structures and fence surfaces within 48 hours of defacement.
- 11. **Co-location.** The applicant and wireless communication facility operator shall facilitate the future co-location of wireless communication antennas on this tower and additions to the at-grade equipment enclosure. The applicant and wireless communication facility operator shall notify the Director of Planning of any proposals by other wireless communication providers to collocate antennas on this tower. The notification shall occur within 30 days of receipt of the proposal, and shall include the file number of this Permit.
- 12. **Generators.** This permit does not include approval for an emergency back-up generator. Any such improvement would require additional approvals by the City.
- 13. **Equipment Removal.** The applicant shall remove the wireless communications antennas and associated equipment enclosure from the site at such time as the equipment is no longer in use.

CONDITIONS SUBSEQUENT

- 1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment must be approved prior to the expiration of this Permit.
- 2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

3. **Time Limit.** This Conditional Use Permit expires and has no further force or effect five years from the date this Permit. At that time, that applicant/owner shall provide information to the City to determine if the wireless communications antenna is still needed, based on improvements in technology or availability of alternative building-mounted opportunities in the vicinity.
4. **Renewal.** The permit holder may seek renewal of a time-conditioned Conditional Use Permit by filing a timely renewal application on the form provided by the Director of Planning, Building and Code Enforcement. In order to be timely, an application for renewal must be filed more than 90 calendar days but less than 180 calendar days prior to the expiration of the Conditional Use Permit. Once a renewal application has been filed in a timely manner, the expiration date of the Conditional Use Permit is automatically extended until either the issuance or denial of the application for renewal has become final.



File No: CP04-026

District: 01

Quad No.: 97

Scale: 1"=500'

Created on 03/22/04



Memorandum

TO: Lori Moniz
Planning and Building

FROM: Ebrahim Sohrabi
Public Works

**SUBJECT: FINAL RESPONSE TO
DEVELOPMENT APPLICATION**

DATE: 07/19/04

PLANNING NO.: CP04-026
DESCRIPTION: Conditional Use Permit to allow a 50-foot-high wireless communications monopole and an associated 375-square-foot ground-level equipment shelter at an existing public utility facility (San Jose Water Company) on a 3-acre site
LOCATION: northwest corner of San Tomas Expressway and Williams Road
P.W. NUMBER: 3-10852

Public Works received the subject project on 03/24/04 and submits the following comments and requirements.

Public Works Clearance for Building Permit(s): Prior to the issuance of Building permits, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.

1. **Flood: Zone A0, Depth 1'**
 - a) Equipment must be elevated at or above the base flood elevation or protected from flood damage.
 - b) An Elevation Certificate (FEMA Form 81-31) for each proposed structure, based on construction drawings, is required prior to issuance of a building permit. Consequently, an Elevation Certificate for each built structure, based on finished construction is required.

Please contact the Project Engineer, Andrew Turner, at (408) 277-5161 if you have any questions.



Ebrahim Sohrabi
Senior Civil Engineer
Transportation and Development Services Division



CITY OF SAN JOSÉ, CALIFORNIA
DEPARTMENT OF PLANNING, BUILDING AND CODE ENFORCEMENT
STATEMENT OF EXEMPTION

FILE NO.

CP04-026

LOCATION OF PROPERTY

Northwest corner of San Tomas Expressway and
Williams Road (3601 Williams Road)

PROJECT DESCRIPTION

Conditional Use Permit to allow the installation of a
50-foot-high wireless communications monopole and
an associated 375-square-foot ground-level equipment
shelter at an existing public utility facility (San Jose
Water Company) on a 12.49 acre site in the R-1-8
Residence Zoning District.

ASSESSOR'S PARCEL NUMBER

299-31-023

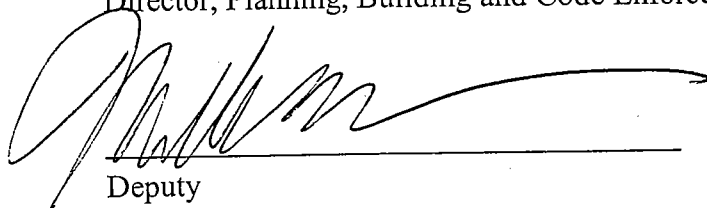
CERTIFICATION

Under the provisions of Section 15303 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.

15303. New Construction or Conversion of Small Structures. Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structures.

Stephen M. Haase, AICP

Director, Planning, Building and Code Enforcement



Deputy

Date September 27, 2004

Project Manager: Lori Moniz

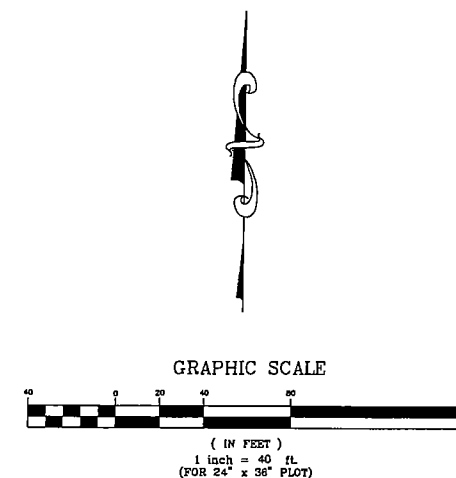
(Rev. 10/23/02)

TITLE REPORT HAS NOT BEEN
PROVIDED FOR THIS PROJECT

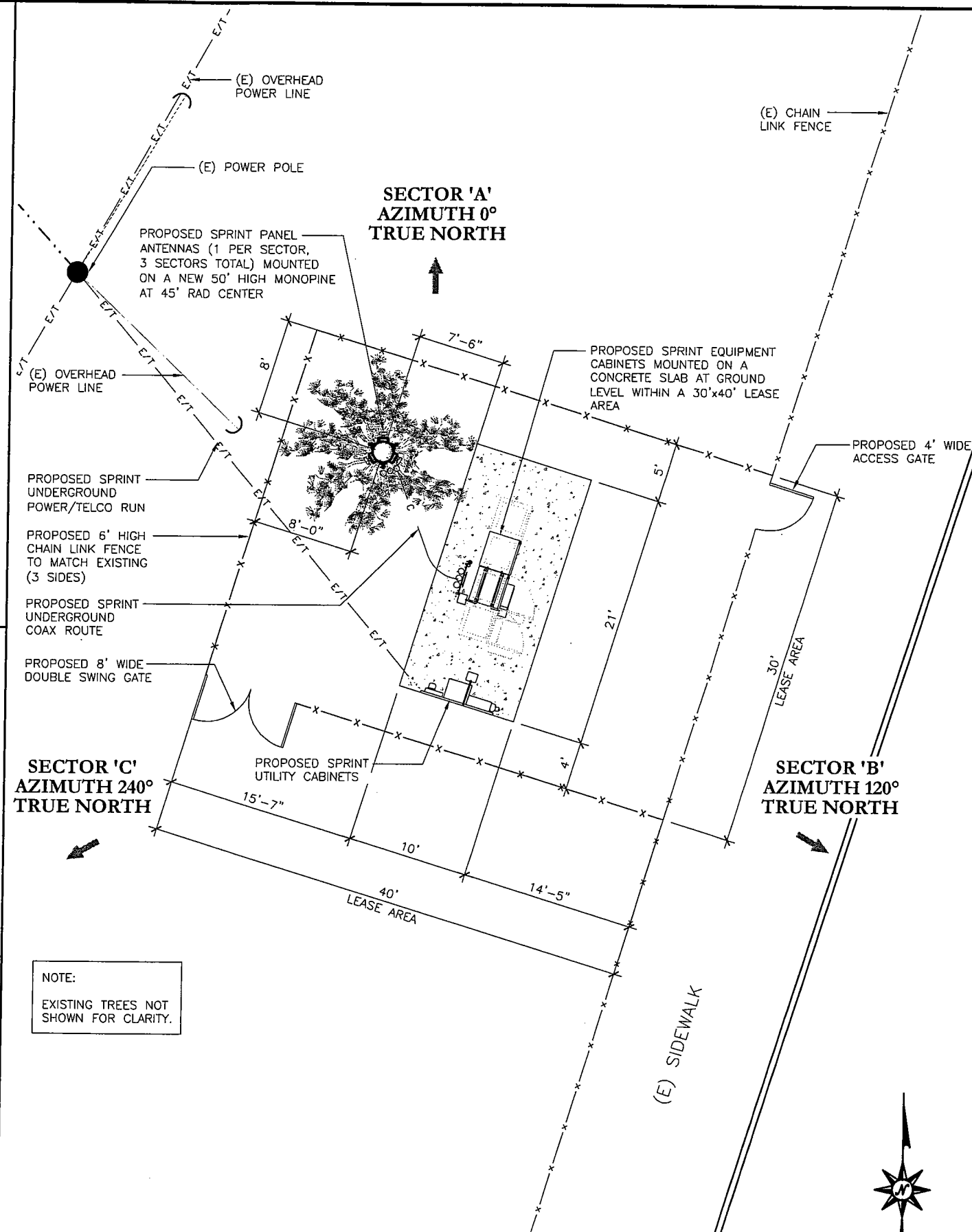
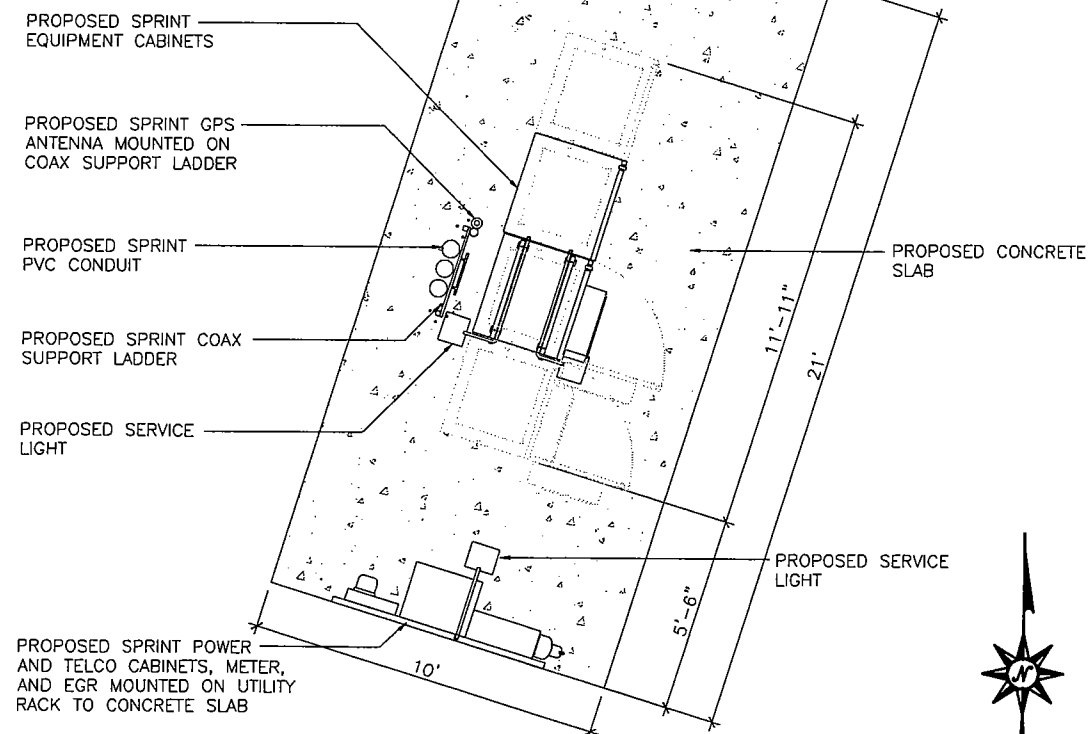
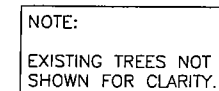
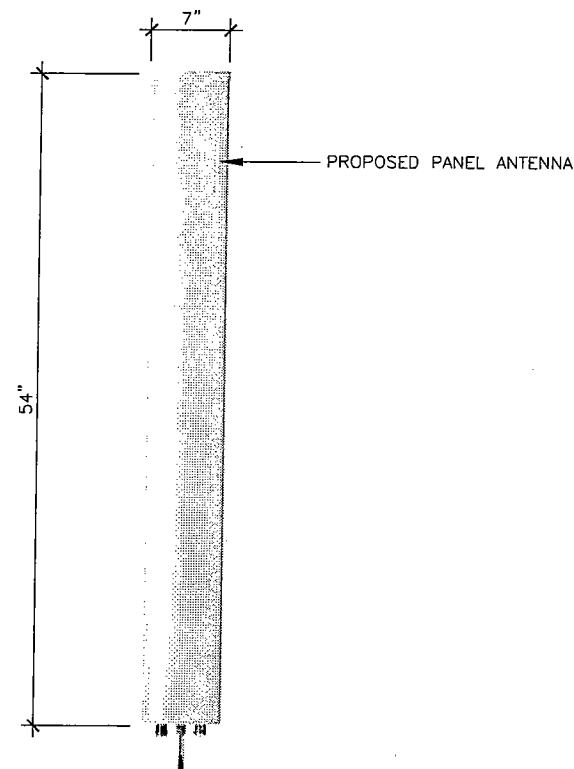
VICINITY MAP
NOT TO SCALE

KEY MAP
N.T.S.

SITE PLAN



C-1



6580 SPRINT PARKWAY
OVERLAND PARK, KANSAS 66251



167 TECHNOLOGY DR.
IRVINE, CALIFORNIA 92618
Office (530) 263-4339
Fax (415) 495-6277



PROJECT NO: SF60XC867-D

DRAWN BY: AU

CHECKED BY: RZ

0	9/15/04	LEASE EXHIBIT
1	9/15/04	90% ZONING
2	9/22/04	100% ZONING
REV	DATE	DESCRIPTION



IT IS A VIOLATION OF LAW FOR ANY PERSON,
UNLESS THEY ARE ACTING UNDER THE DIRECTION
OF A LICENSED PROFESSIONAL ENGINEER,
TO ALTER THIS DOCUMENT.

WILLIAMS STATION 2
SF60XC867-D
381 WILLIAMS ST.
SAN JOSE, CA 95113
SANTA CLARA COUNTY

SHEET TITLE
EQUIPMENT AREA PLAN /
EQUIPMENT LAYOUT
AND ANTENNA DETAIL

SHEET NUMBER

A-2

